

RECEIVED  
CENTRAL FAX CENTER

JUN 04 2007

8

REMARKS/ARGUMENTS

In the Office action dated February 8, 2007, claims 4 – 9 and 12 – 15 were objected to and claims 1 – 3, 10, 11 and 16 were rejected under 35 USC § 102 in view of newly cited US patent 6,224,018 to Hinestroza. (Claim 17 as originally filed was previously canceled.)

In response, Applicant has amended claims 1 and 12 and now respectfully requests reconsideration of the application in view of the amendments and the below-provided remarks.

I. Allowable Subject Matter

Applicant notes with appreciation that claims 4 – 9 and 12 – 15 are objected to but would be allowable if rewritten in independent form.

II. Claim Rejection under 35 U.S.C. 102

Claims 1 – 3, 10, 11 and 16 stand rejected under 35 USC § 102 in view of US patent 6,224,018 B1 to Hinestroza, which discloses a survival capsule for protecting an occupant of a motor vehicle, boat or airplane during a crash, the occupant being seated on a chair protectively enclosed within the capsule. In rejecting the above numbered claims, the Examiner recites a number of structural similarities between Applicant's hyperbaric capsule as claimed and Hinestroza's survival capsule as disclosed. Evidently, the Examiner considers that clear limitation of Applicant's description and claims to 'a hyperbaric capsule' is insufficient to negate the structural similarities of the two capsules.

Claim 1

Accordingly, claim 1 has now been amended to explicitly require:

- (i) That the "hyperbaric capsule [is] for use in maintaining hyperbaric gas pressure around a user located therein", and
- (ii) The inclusion of "means ... for supplying gas under pressure to the capsule and for maintaining hyperbaric pressure within the capsule, when the canopy is in the closed position".

It is submitted that these restrictions now clearly distinguish the instant invention as claimed over the teachings of Hinestroza.

Attorney Docket No. GRANT-013  
Serial No.: 10/531,497

Amendment and Response to Office action

More specifically, it is clear that the applicant uses the term 'hyperbaric capsule' to indicate a device adapted to surround a user with gas at a pressure that is greater than normal atmospheric at the surface of the earth. This use is wholly consistent with the use of the term 'hyperbaric' in the extensive prior art relating to hyperbaric chambers for therapeutic use. The most relevant items of this prior art known to the Applicant were referenced by the applicant in the specification. Additional art of this nature was included in the Invention Disclosure Statement and yet more art of this nature was cited by the Examiner in the first Office Action. It is abundantly clear that Hincstroza is not concerned with a hyperbaric chamber or capsule for therapeutic use.

It is submitted, contrary to the Examiner's assertion, that the limitations of the penultimate clause of amended claim 1 are not disclosed, suggested or in any way taught by Hincstroza. This clause reads as follows:

said canopy defines a peripheral seal-line that is adapted to engage with said base seal-line to form an air-tight seal between the canopy and the base when the canopy is in the closed position.

None of the terms 'seal', 'seal-line' or 'air tight' occurs anywhere in Hincstroza and there is no discussion of the need for such a seal – certainly not in the passage [col. 4 lines 25 – 40] referenced by the Examiner. Furthermore, the context of this clause within amended claim 1 makes it clear that the air-tight seal is intended or adapted to seal against leakage of the pressurizing gas from the capsule during use, a further distinction over the teaching of Hincstroza.

It is therefore respectfully submitted that, as now amended, claim 1 is patentably distinguished over the disclosure of Hincstroza and is now allowable.

#### Claim 2

Claim 2, being dependent upon claim 1, incorporates the novel features of claim 1 and is therefore distinguished over Hincstroza in same manner as claim 1. It is further submitted that the structural features of Applicant's hyperbaric capsule are novel within the hyperbaric capsule art, though they may bear similarity to some features of the Hincstroza survival capsule in the respective art.

It is respectfully submitted that claim 2 is also patentably distinguished over the disclosure of Hincstroza and is allowable.

Claim 3

It is alleged with respect to claim 3, that 'Hinestroza teaches an apparatus that comprises latching means operable from both within and outside the capsule for securing the canopy to the base when the canopy is in the closed position to permit pressurization of the capsule, and for releasing the canopy from the base for movement to the open position". In support of this allegation, reference is made to Figures 2 and 3 and to column 4, lines 25-45. However, it is respectfully submitted that neither these Figures nor the referenced passage appear relevant. No recognizable canopy latching means is depicted in Figures 2 and 3; none of the reference numerals used in these Figures identifies any form of canopy latch; no form of canopy latch is mentioned in the cited passage and, certainly, there is no disclosure of canopy latching means operable from both within and outside the capsule. The referenced passage only mentions the ability of the door portion [42] to "selectively close front opening 41 of capsule 40" and that, "the door portion 42 closes the front opening 41 of the capsule 40 in anticipation of a crash, either automatically ... or manually by the occupant". There is no suggestion of 'latching means'.

Apart from the clamping means [23, 24 30] for restraining the arms, legs and ankles of the user, the only latching means that can be said to be disclosed by Hinestroza is a latch [33] for an access panel [32] that provides access to a radio transmitter and tanks. This latch has nothing to do with the operation of the door portion 42 of the Hinestroza survival capsule.

Finally, claim 3 is dependent (via claim 2) upon claim 1 and incorporates all the novel features of claim 1.

It is respectfully submitted that claim 3 is also patentably distinguished over the disclosure of Hinestroza and is allowable.

Claim 10

It is alleged that "Hinestroza teaches an apparatus wherein the canopy is hingedly attached to the front portion of the base for movement about a transverse horizontal axis" and that this feature is shown in Figures 2 and 3. Yet no hinge is either depicted in these Figures or alluded to in the associated description. In fact, in the very passage [Col. 4 lines 25 - 45] referenced by the Examiner with respect to claim 3, a door that is hinged about a horizontal axis is contra-indicated: Hinestroza states, "Ideally, the door portion 42 is slidable along the inner surface of the capsule 40" .

11

Finally, as noted with respect to claim 2, claim 10 is dependent upon claim 1 and incorporates all the novel features of that claim.

It is respectfully submitted that claim 10 is also patentably distinguished over the disclosure of Hinestroza and is allowable.

#### Claim 11

It is alleged that "Hinestroza teaches an apparatus wherein a pressure operated lock is provided to prevent opening of the canopy while there is super atmospheric pressure within the capsule" and, in support, reference is made to Figure 3 and column 3, lines 50 – 67 of Hinestroza. However, no pressure operated lock is disclosed by Hinestroza at all; indeed, the word 'pressure' does not occur in the Hinestroza specification and (as already noted) 'lock' is only used in relation to arm, leg and ankle restraints that are not disclosed in Applicants' specification. Figure 3 does not depict a pressure-operated lock and none of the reference numerals used in that Figure refers to anything with that function – or (as noted above) is there any reference to any canopy locking or latching means at all. Finally, there is simply no mention of or allusion to the ability of the canopy to contain super-atmospheric pressure to inhibit canopy opening for any reason.

Furthermore, claim 11 is dependent upon claim 1 and therefore incorporates all the novel features of that claim.

It is respectfully submitted that claim 11 is also patentably distinguished over the disclosure of Hinestroza and is allowable.

#### Claim 16

It is alleged that "Hinestroza teaches an apparatus wherein the width of the capsule is less than that of a standard door frame, and the base is fitted with wheels or rollers by which the capsule can be moved to or transported within a domestic location". Again Figure 3 and column 3, lines 50 – 67 are cited in support of this allegation.

In fact, neither Figure 3 nor the cited passage supports this allegation in any way. Neither makes any reference whatsoever to door frames – standard or otherwise – or to supporting wheels or rollers. Moreover, since Hinestroza is concerned with passenger survival capsules that are incorporated into vehicles, boats or airplanes, there is no point in proportioning such capsules to fit through standard

12

door frames or in providing them with wheels to allow them to be moved within a domestic location.

Indeed, according to the teaching of Hinestroza, there no point in having such a survival capsule in a domestic location'.

Finally, as noted with respect to claim 2, claim 16 is dependent upon claim 1 and incorporates all the novel features of that claim.

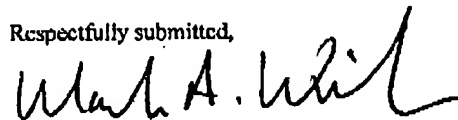
It is respectfully submitted that claim 16 is also patentably distinguished over the disclosure of Hinestroza and is allowable.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-3444 pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account 50-3444 under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Applicant respectfully requests reconsideration of the claims in view of the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,

Date: June 4, 2007



Mark A. Wilson Reg. No. 43,994

Wilson & Ham  
PMB: 348  
2530 Berryessa Road  
San Jose,  
CA 95132  
Phone: (925) 249-1300  
Fax: (925) 249-0111

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER: \_\_\_\_\_**

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**